

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY**  
**BOND FINANCING PROGRAM**  
**Meeting Date: November 30, 2012**  
***Request for Final Resolutions and***  
***Request for Tax-Exempt Bond Allocation Approval***

Prepared by: *Deanna Hamelin*

<b>Applicant:</b> Poseidon Resources (Channelside) LP and/or its Affiliates and San Diego County Water Authority Financing Agency and/or its Affiliates	<b>Amount Requested:</b> \$570,000,000 Private Activity Bonds (PABs) \$270,000,000 Governmental Purpose Bonds
<b>Project Location:</b> Carlsbad (San Diego County)	<b>Application No.:</b> 849 (SB) <b>Final Resolution Nos.:</b> 515, 530 <b>Prior Actions:</b> IR Approved 10/25/11 IR Amendment 9/18/12

**Summary.** Poseidon Resources (Channelside) LP and/or its Affiliates (“Poseidon” or the “Company”) and San Diego County Water Authority Financing Agency (SDCWAFAs) and/or its Affiliates (which Affiliates shall include the San Diego County Water Authority), as co-applicants, request approval of Final Resolutions to issue bonds for up to \$840,000,000. The proposed bonds will be issued as follows:

- \$270,000,000 of Governmental Purpose Bonds on behalf of the San Diego County Water Authority Financing Agency (“SDCWAFAs”) to finance the associated water pipelines (the “Pipeline Bonds”) to supply water to the San Diego area.
- \$570,000,000 of PABs on behalf of Poseidon to finance the construction of a desalination plant (the “Plant Bonds”) to supply water to the San Diego area.

Poseidon also requests \$570,000,000 of Private Activity Bond Volume Cap Allocation for the Plant Bonds.

**Borrowers.**

SDCWAFAs is a joint powers entity formed by SDCWA. SDCWAFAs is duly organized and existing under the California Joint Exercise of Powers Act (Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, the “JPA Act”, and in particular Articles 1, 2, and 4 thereof) and an Agreement entitled “Joint Exercise of Powers Agreement by and between the SDCWA and the California Municipal Finance Authority creating the San Diego County Water Authority Financing Agency, dated December 17, 2009, for the purpose of assisting the financing of capital projects of the SDCWA.

The Governing Board of the SDCWAFAs is as follows:

- Thomas Wornham, Chair of SDCWA Board
- Barbara Wight, Chair of the Administrative & Finance Committee of SDCWA
- Maureen A Stapleton, General Manager of SDCWA
- Daniel S Hentschke, General Counsel of SDCWA

Tracy McCraner, Director of Finance/Treasurer of SDCWA

SDCWA was established in San Diego County on June 9, 1944. SDCWA is a public agency serving the San Diego region as wholesale supplier of water from the Colorado River and Northern California. The SDCWA provides water to its 24 member agencies serving the San Diego Region.

Since it is a public agency, the SDCWA does not have owners. A listing of the board members is attached as Attachment A.

Poseidon was formed in Delaware on April 15, 2003. The Company specializes in developing and financing water infrastructure projects, primarily seawater desalination. The following entities hold the following percentage of partnership interests in Poseidon:

Poseidon Carlsbad LLC	99.9%
Poseidon Resources Channelside GP, Inc. (less than 1%)	<u>0.1%</u>
<b>Total:</b>	<b><u>100.0%</u></b>

The sole stockholder for Poseidon Resources Channelside GP, Inc. (“Poseidon GP”) is Poseidon Carlsbad, LLC (“Poseidon Carlsbad”).

Poseidon Water LLC holds the majority of the membership interests in Poseidon Carlsbad but certain executives or employees hold nonvoting units representing less than 6% of outstanding membership interests. Poseidon Carlsbad is a direct subsidiary of Poseidon Water LLC.

Below are investors in Poseidon Water LLC that have more than 3% voting rights:

- Mandeville Desalination Ventures, LLC
- Mandeville Desalination Ventures II, LLC
- Mandeville Desalination Ventures IV, LLC
- Sustainable Development Investments, L.P.
- Nimes Capital, LLC

See Attachment B for current Corporate Structure representation.

The post-closing ownership structure of the Company will differ slightly. Poseidon GP will continue to be Poseidon’s general partner and Poseidon’s sole limited partner will be Poseidon Resources Channelside Holdings LLC (“Holdings”). The sole member of Holdings will be Orion Water Partners LLC (“Orion”) (See Attachment C). Holdings will own all the equity interests in Poseidon GP. At the time of issuance of the Plant and Pipeline bonds, the members of Orion will be Poseidon Carlsbad LLC and Orion Water Acquisitions LLC (“Stonepeak”), an affiliate of Stonepeak Infrastructure Fund LP.

The members of Orion Water Partners LLC are:

- Poseidon Carlsbad LLC
- Stonepeak

See Attachment C for the partners of Stonepeak.

**Legal Questionnaire.** The Staff has reviewed the SDCWAFAs' and SDCWA's responses to the questions contained in the Legal Status portion of the Application. No information was disclosed in the SDCWAFAs' and SDCWA's Legal Status portion of the Application that raises questions concerning the financial viability or legal integrity of these co-applicants.

In Poseidon's portion of the CPCFA Final Resolution application, Poseidon responded affirmatively regarding its involvement in pending litigation. Since 2006, six lawsuits have been filed in California state courts against the plant and project approvals made by the California Coastal Commission, San Diego Regional Water Quality Control Board, California State Lands Commission and the City of Carlsbad in connection with the plant and the Project, one of which is on appeal and still remains pending.

The San Diego County Superior Court recently upheld the San Diego Regional Water Quality Control Board's May 13, 2009 approval of a mitigation plan for the project; however, project opponents filed an appeal of the court's decision with the California Fourth Appellate District, which remains pending. While there can be no assurance that this litigation will not materially interfere with the scheduled development of the plant and project, it appears unlikely to have an impact on the financing and construction of the pipeline or plant.

**TEFRA.** The TEFRA hearing for the Plant Bonds was held on November 8, 2012. There were no comments received in support of or in opposition to this Project.

**Fees.** Poseidon has paid an application fee of \$5,000 and will pay an administrative fee up to \$1,135,000 upon closing for the plant bonds. The SDCWAFAs will pay an administrative fee up to \$540,000 upon closing for the pipeline bonds.

**Prior Financings.** There are no prior financings for Poseidon, the SDCWAFAs or the SDCWA.

**Project Description.** The Carlsbad Desalination Project consists of constructing a reverse-osmosis seawater desalination plant with an average operating capacity of 50 million gallons per day (or alternatively 56,000 acre feet per year) and associated water delivery pipelines. The desalination plant will take raw sea water from the Encina Power Station cooling water system, produce potable drinking water for transmission to the regional water supply system, and discharge concentrated seawater back into the power plant cooling water discharge channel for dilution and discharge back into the ocean. The water delivery pipelines will be located underground through easements obtained with the California Department of Transportation and the Cities of Carlsbad, Vista, and San Marcos through the rights of the San Diego County Water Authority to access public rights of way and through a license agreement with the North County Transportation District to access its right of way. Approximately 10 miles of new conveyance pipelines along with upgrades to existing pipelines will connect to the existing water delivery systems of the San Diego County Water Authority and supply water throughout San Diego County.

**Agenda Item 3.A.1.**

Pursuant to a proposed Water Purchase Agreement (WPA), the SDCWA would purchase the output of desalination plant for a term of 30 years. The SDCWA would have the option to purchase the project after the tenth year of commercial operation. The WPA would require that the SDCWA purchase a minimum of 48,000 acre feet per year (AFY) of desalinated water. The purchase of additional deliveries is at the discretion of the Water Authority and payment is tied to the variable costs as defined in the WPA. The SDCWA would only pay for the water actually delivered.

The anticipated Project and issuance costs are listed below:

**Plant Bonds Project Costs**

	To be paid from bond proceeds	To be paid from all other sources
Engineering, Procurement, Construction	\$406,168,910	\$14,411,000
Substation Construction	19,707,525	0
Net Capitalized Interest During Construction	91,988,723	0
Interest During Construction Contingency	10,654,106	0
Project Contingency	41,480,736	20,000,000
Development & Construction Period Costs	0	49,435,370
Financing Fees & Closing Costs	0	24,011,981
Working Capital Reserve	0	15,769,897
Other Reserves and Deposits	0	<u>44,079,090</u>
<b>Total</b>	<b><u>\$570,000,000</u></b>	<b><u>\$167,707,338</u></b>

**Pipeline Bonds Project Costs**

	To be paid from bond proceeds	To be paid from all other sources
Engineering, Procurement, Construction	\$147,619,547	\$0
Substation Construction	0	0
Net Capitalized Interest During Construction	38,164,467	0
Interest During Construction Contingency	4,432,497	0
Project Contingency	44,367,634	0
Development & Construction Period Costs	17,702,004	0
Financing Fees & Closing Costs	5,089,653	0
Working Capital Reserve	0	0
Other Reserves and Deposits	<u>12,624,198</u>	<u>0</u>
<b>Total</b>	<b><u>\$270,000,000</u></b>	<b><u>\$0</u></b>

## Agenda Item 3.A.1.

*Note: The Project costs reported in the Borrower's application and shown here in staff's report are estimated costs. At the time this financing closes, the estimated Project costs will be finalized and stated in the Tax Certificate. Variations from the costs shown in the application and in this report may occur prior to the closing due to increased costs of certain components of the Project from original estimates, and other reasons. In addition, such costs may vary after closing due also to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in law or regulation or for other reasons. However, the Borrower confirms, through submission of a signed application and will confirm through covenants and representations in various bond documents, that all assets purchased with bond proceeds will qualify for tax exempt financing, that they will be used to complete the Project as described, and that the average life tests required by federal law and described in the Tax Certificate will continue to be met. Tax-exempt financing may be only one source out of multiple sources of financing for a given project.*

**Anticipated Timeline.** Construction of the plant and associated pipelines is expected to take place within 35 months from the bond issuance date.

**Local Government.** The Carlsbad Desalination Project has received numerous support letters from various local entities over the course of the bond allocation process including the City of San Diego and the City of Carlsbad. Support letters were received for the Project from members of U.S. Congress and the California State Legislature.

**Pollution Control and/or Environmental Benefits.** The Company represents the Project will generate the pollution control and environmental benefits described below.

**Ratepayer Benefits.** The use of tax-exempt debt in financing the project will allow the SDCWA and the Company to finance the water project at competitive rates thus benefitting the ratepayers.

**Air Quality.** The Project itself is not a source of Greenhouse Gas (GHG) emissions. However, the production of desalinated water will rely on the electricity purchased from San Diego Gas and Electric that is generated using a mix of renewable and fossil fuel sources. Through its *Energy Minimization and GHG Reduction Plan*, Poseidon has committed to offset the net indirect GHG emissions associated with the project's purchase of electricity, advancing the State of California's goals for reduction in GHG emissions.

**Water Supply.** The Project will provide the San Diego County region with a locally-controlled, reliable, drought-resistant water supply. It will serve the equivalent water needs of 112,000 households of four and account for approximately seven percent of the total projected regional supply.

**High Quality Drinking Water.** The Project will provide a high quality drinking water supply that meets all State and Federal health standards, as well as a 30 to 50 percent reduction in the total dissolved solids (TDS) from the current imported water supply. The higher quality desalination water will facilitate water conservation and recycling programs and provide economic benefits for residents and businesses through avoided industrial water treatment costs and reduced maintenance, repair, and replacement costs of end-user appliances and equipment.

**Acquisition of Land for Public Purpose.** The Project includes the dedication of nearly 15 acres of ocean and lagoon front property to the public for recreation and access to coastal amenities. As such, the Project is consistent with and includes the elements specifically intended to advance

the goals of the State of California and the City of Carlsbad related to the protection, maintenance, and enhancement of the overall quality of the coastal zone environment, while maximizing public recreational opportunities along the coast.

**Restore and Enhance Marine Environment.** As a wholesale water supplier regulated by the California Department of Health Services, the Project operator will be subject to the provisions of the federal Safe Drinking Water Act which requires the restoration, protection and enhancement of watersheds upstream of a source of drinking water supply. The Project operator will be actively involved in activities aimed at protecting, restoring, and enhancing the health and vitality of the Agua Hedionda Lagoon, the surrounding 30 square mile watershed upstream of the Lagoon and the near shore environment. Poseidon has committed to restore up to 66.4 acres of coastal wetlands and to contribute \$1,000,000 to the California Department of Parks and Recreation for the reforestation of Rancho Cuyamaca State Park.

**Economic Activity and Jobs.** Construction of the desalination plant, water pipelines and operations of the Project will infuse hundreds of millions of dollars into the local economy while creating hundreds of new jobs in the desalination, engineering, construction and other service industries.

**Permitting and Environmental Approvals.**

The Company believes that all required permits necessary for Plant construction have been received, other than approvals that (a) are not required to be in place on or prior to the issuance of the Series 2012 Plant Bonds and (b) would not customarily be obtained in connection with ownership, construction and/or operation of the Plant given the stage of construction on or prior to the issuance of the Series 2012 Plant Bonds.

Certain permits and governmental approvals will be required for the completion and operation of the Plant, including a Wholesale Domestic Water Supply Permit from the California Department of Health Services. While the Company does not anticipate that obtaining these permits and approvals will involve unusual difficulties, there can be no assurance that all of the permits and approvals will be obtained in a timely manner or at all. Delay or failure to obtain such permits or approvals could delay or prevent completion and/or operation of the Plant and/or result in additional costs.

**Financing Details.**

**Plant Bonds:**

The Company anticipates issuance of a negotiated limited offering to Qualified Institutional Buyers (QIBs as defined in SEC Rule 144 under the Securities Act of 1933) in minimum denominations of \$250,000 or any integral multiple of \$5,000 in excess thereof. The Company is seeking at least two investment grade ratings among Fitch, Moody's and Standard & Poor's. Poseidon will enter into a Collateral Trust Agreement in which it will pledge all of its assets to a collateral agent which will hold them for the benefit of the Trustee for the Plant Bonds and the trustee for the Pipeline Bonds and ultimately for the bond holders. The target date for financing is December 20, 2012.

Pipeline Bonds:

The SDCWA anticipates issuance of a negotiated limited offering to Qualified Institutional Buyers (QIBs as defined in SEC Rule 144 under the Securities Act of 1933) in minimum denominations of \$250,000 or any integral multiple of \$5,000 in excess thereof. The SDCWA is seeking at least two investment grade ratings among Fitch, Moody's and Standard & Poor's. The Water Authority will pay the purchase price in installments in such amounts and when debt service payments are due under an installment sale agreement between the Water Authority and SDCWAFWA. Such installment payments will be applied by the SDCWAFWA to secure loan repayments under a loan agreement between CPCFA and SDCWAFWA.

The SDCWA is not obligated to make Pipeline payments under the installment sale agreement with SDCWAFWA unless and until both the Plant and Pipelines are completed. If a delay in the construction of the Pipeline occurs, Poseidon will be required to make Contracted Shortfall Payments in amounts sufficient to pay interest on the Pipeline Bonds during the period of delay. The target date for financing is December 20, 2012.

Financing Team.

**Underwriters:** J.P. Morgan Securities LLC  
Barclays Capital, Inc.  
Merrill Lynch, Pierce, Fenner & Smith  
Incorporated  
Goldman Sachs & Co.  
Stifel, Nicolaus & Company, Incorporated,  
DBA Stone & Youngberg, a Division of Stifel,  
Nicolaus

**Bond Counsel:** Orrick Herrington & Sutcliffe

**Issuer's Counsel:** Office of the Attorney General

Staff Recommendation. Staff recommends approval of Final Resolutions to issue bonds for up to:

- \$270,000,000 of Governmental Purpose Bonds on behalf of the SDCWAFWA to finance water pipelines associated with the Poseidon desalination plant to supply water to the San Diego area.
- \$570,000,000 of PABs on behalf of Poseidon to finance the construction of a desalination plant to supply water to the San Diego area.

Staff also recommends approval of a Private Activity Bond Volume Cap Allocation for an amount not to exceed \$570,000,000 for Poseidon Resources (Channelside) LP and/or its Affiliates.

## Attachment A

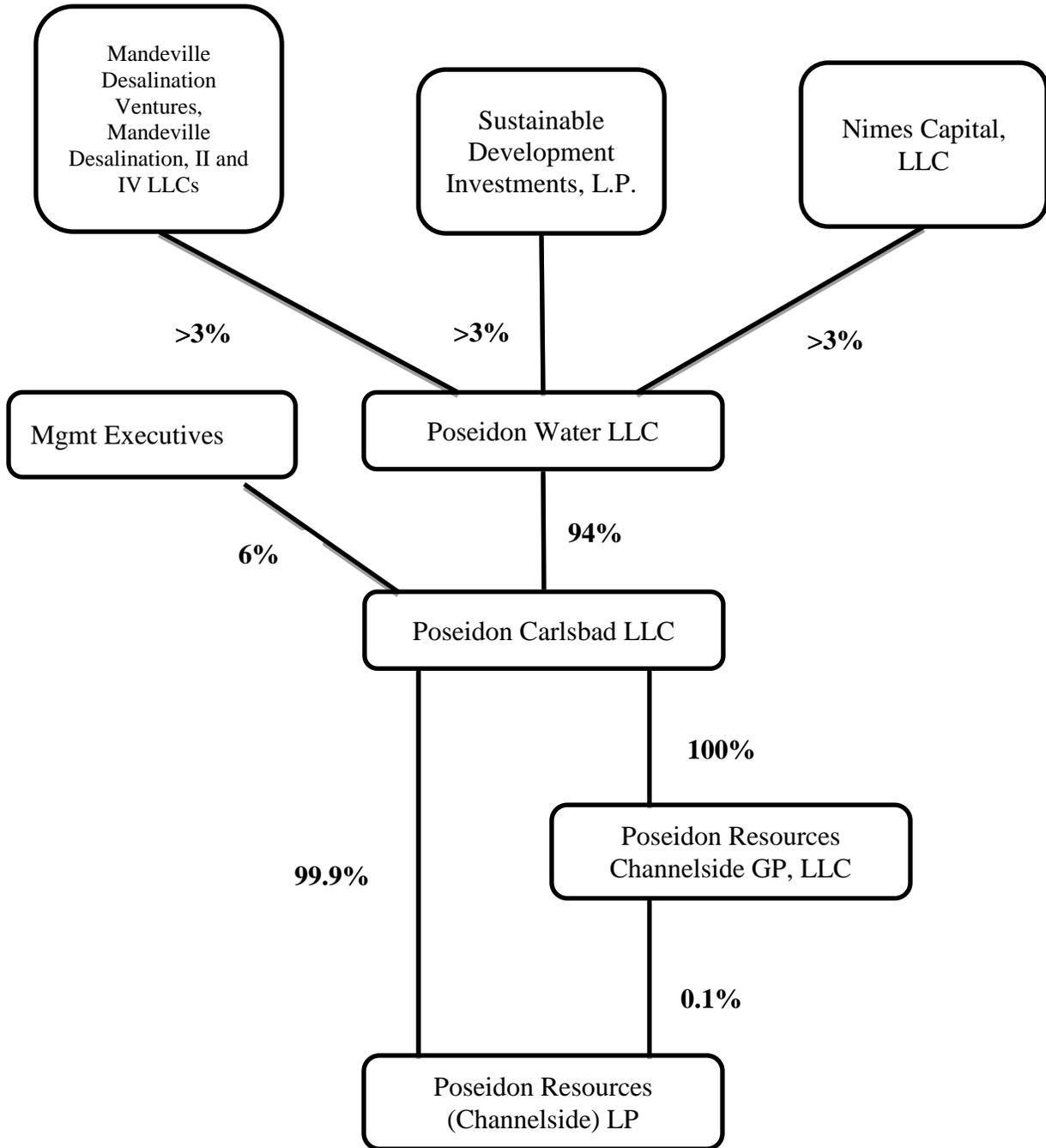
### Board Members of the San Diego County Water Authority

<b>Name</b>	<b>Officer/Partner/Member</b>
Thomas Wornham	Chair of SDCWA Board
Richard Smith*	Vice Chair of SDCWA Board
Michael Hogan	Secretary of SDCWA Board
Farrah Douglas	Board Member (Carlsbad)
Keith Lewinger	Board Member (Carlsbad)
Hershell Price	Board Member (Del Mar)
Marilyn Dailey	Board Member (Escondido)
Brian Brady	Board Member (Fallbrook)
John Linden	Board Member (Helix)
Richard Smith*	Board Member (Helix)
Frank Hilliker	Board Member (Lakeside)
Ron Morrison	Board Member (National City)
Brian Boyle	Board Member (Oceanside)
Bob Topolovac	Board Member (Olivenhain)
Gary Croucher	Board Member (Otay)
Mark Watton	Board Member (Otay)
Doug Wilson	Board Member (Padre Dam)
Mark Weston	Board Member (Poway)
Dennis Sanford	Board Member (Rainbow)
David Barnum	Board Member (Ramona)
Mitchell Dion	Board Member (Rincon del Diablo)
Roger Bailey	Board Member (San Diego)
Jim Madaffer	Board Member (San Diego)
Vincent Mudd	Board Member (San Diego)
Javier Saunders	Board Member (San Diego)
Elsa Saxod	Board Member (San Diego)
Fern Steiner	Board Member (San Diego)
Yen C. Tu	Board Member (San Diego)
Barbara Wight	Board Member (San Diego)
Kenneth Williams	Board Member (San Diego)
Thomas Wornham	Board Member (San Diego)
Jim Bond	Board Member (San Dieguito)
Michael Hogan	Board Member (Santa Fe)
Bud Pocklington	Board Member (South Bay)
Dennis Lamb	Board Member (Vallecitos)
Gary Arant	Board Member (Valley Center)
Marty Miller	Board Member (Vista)
W.D. Knutson	Board Member (Yuima)

\*Subject to change as Mr. Richard Smith did not win re-election bid.

**Attachment B**

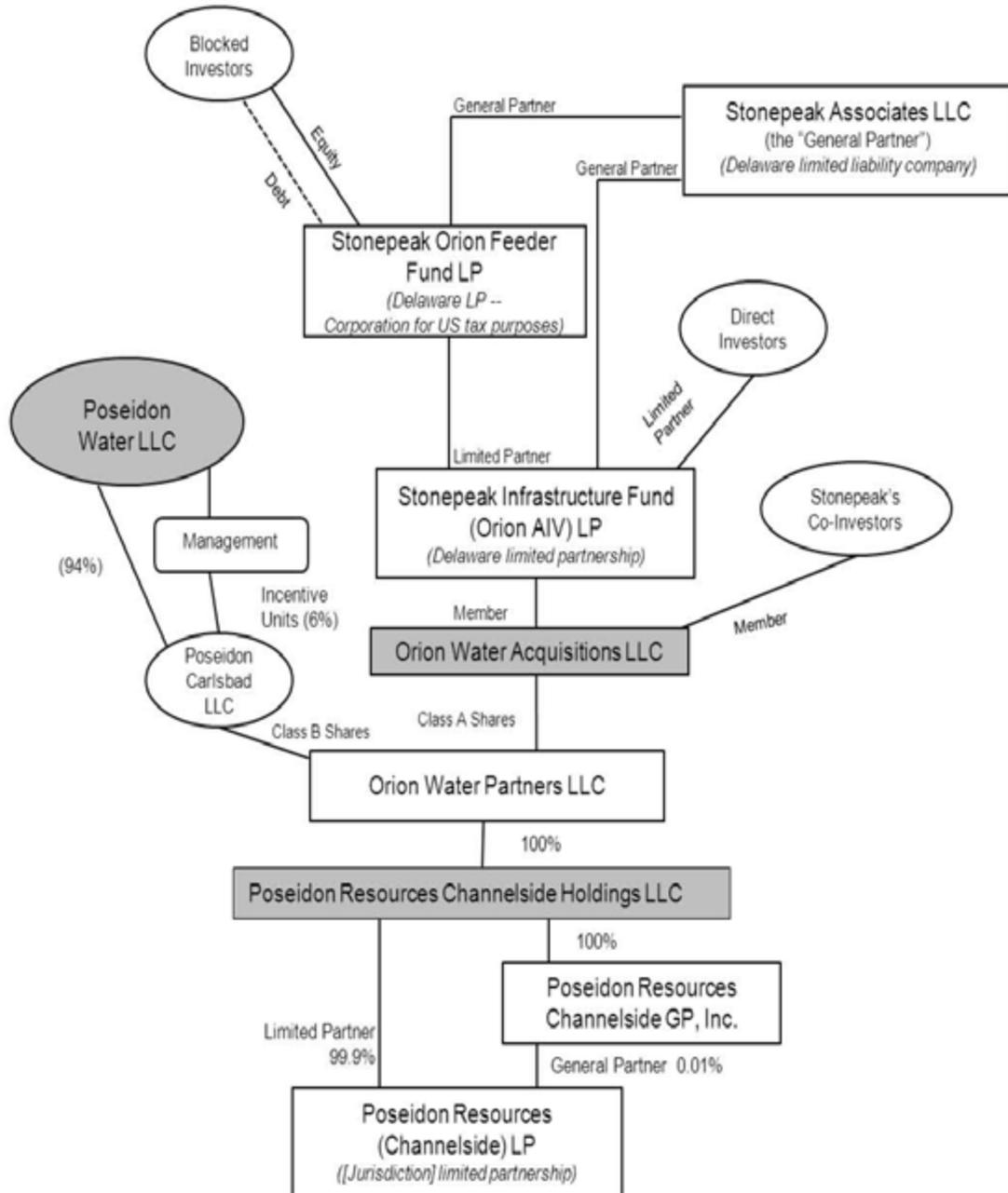
**Current Poseidon Corporate Structure**



# Attachment C

November 2012

## Proposed Post Closing Ownership Structure



**FINAL BOND RESOLUTION OF THE  
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY  
RELATING TO FINANCING OF WATER FURNISHING FACILITIES FOR  
SAN DIEGO COUNTY WATER AUTHORITY FINANCING AGENCY AND/OR  
SAN DIEGO COUNTY WATER AUTHORITY**

**November 30, 2012**

**WHEREAS**, the California Pollution Control Financing Authority (the “Issuer”) has received the application of San Diego County Water Authority (the “Water Authority”) on behalf of itself and the San Diego County Water Authority Financing Agency (the “Borrower”), for financial assistance to finance the development, design, engineering, acquisition and construction of water furnishing facilities, located in San Diego County, and all as more particularly described in the Term Sheet (the “Term Sheet”) attached hereto as Exhibit A and incorporated herein (the “Pipeline”); and

**WHEREAS**, the Water Authority and the Borrower have requested the Issuer to issue its revenue bonds from time to time in an amount not to exceed \$270,000,000 to assist in the financing of the Pipeline; and

**WHEREAS**, the proceeds of such revenue bonds will be loaned to the Borrower under the Pipeline Loan Agreement (as hereinafter defined) with the Issuer; and

**WHEREAS**, the Borrower will make loan repayments under the Pipeline Loan Agreement solely from, and the Borrower’s obligation to make such loan repayments will be secured solely by, installment sale payments to be made by the Water Authority to the Borrower under an Installment Sale and Assignment Agreement, dated as of December 1, 2012 (the “Installment Sale Agreement”), by and between the Borrower and the Water Authority; and

**WHEREAS**, under certain circumstances, Poseidon Resources (Channelside) LP (“Poseidon”) will be obligated to make payments to the Borrower under the Installment Sale Agreement (the “Contracted Shortfall Payments”), which obligation will be secured pursuant to the terms of a Collateral Trust Agreement (the “Collateral Trust Agreement”), among the Poseidon, the Pipeline Trustee (as defined below) and Union Bank, N.A., as collateral agent, and others; and

**WHEREAS**, pursuant to the Pipeline Loan Agreement, the Borrower will assign its rights to receive Contracted Shortfall Payments to the Issuer and, pursuant to the Pipeline Indenture, the Issuer will assign its rights to receive such payments to the Pipeline Trustee as additional security for the Pipeline Bonds (as hereinafter defined); and

**WHEREAS**, the Borrower has caused a form of the Installment Sale Agreement and the Collateral Trust Agreement to be prepared and placed on file with the Issuer prior to this meeting; and

**WHEREAS**, final approval of the terms of such revenue bonds and certain documents relating to such revenue bonds is now sought; and

**WHEREAS**, the Borrower has provided documentation to the Issuer demonstrating that the Pipeline has complied with Division 13 (commencing with Section 21000) of the Public Resources Code, or is not a project under that division;

**NOW, THEREFORE, BE IT RESOLVED** by the California Pollution Control Financing Authority, as follows:

**Section 1.** The Pipeline constitutes a “project,” and the Borrower is a “participating party” both within the meaning of the California Pollution Control Financing Authority Act (the “Act”).

**Section 2.** Pursuant to the Act, revenue obligations of the Issuer, designated as the “California Pollution Control Financing Authority Water Furnishing Revenue Bonds (San Diego County Water Authority Desalination Project Pipeline) Series 2012” (the “Pipeline Bonds”), or such alternate designation as may be approved by the Executive Director of the Issuer, in an aggregate principal amount not to exceed \$270,000,000 are hereby authorized to be issued. The Pipeline Bonds may be issued at one time, or from time to time, in one or more series separately or differently identified, and may be issued in a tax exempt or taxable mode, in accordance with the Pipeline Indenture (as hereinafter defined) as finally executed. The proceeds of the Pipeline Bonds shall be used to make a loan to the Borrower to finance the Pipeline (including, without limitation, reimbursing the Borrower for costs incurred for the Pipeline prior to the issuance of the Pipeline Bonds), and to pay a portion of the costs of issuance of the Pipeline Bonds.

**Section 3.** The Treasurer of the State of California (the “Treasurer”) is hereby authorized to sell the Pipeline Bonds, at one time or from time to time on or before December 31, 2012, by negotiated sale, at such price, at such interest rate or rates and in such mode (taxable or tax-exempt) as he may determine, such determination to be as set forth in the hereinafter referred to Pipeline Bond Purchase Agreement.

**Section 4.** The following documents:

- i.** a Loan Agreement relating to the Pipeline Bonds (the “Pipeline Loan Agreement”), between the Issuer and the Borrower;
- ii.** an Indenture relating to the Pipeline Bonds (the “Pipeline Indenture”), between the Issuer and the trustee named in the Term Sheet (the “Pipeline Trustee”);
- iii.** a bond purchase agreement relating to the Pipeline Bonds (the “Pipeline Bond Purchase Agreement” and, together with the Pipeline Loan Agreement and the Pipeline Indenture, the “Authority Pipeline Documents”) among the Issuer, the Treasurer of the State of California and the underwriters named in the Term Sheet (the “Underwriters”), and approved by the Borrower; and
- iv.** the limited offering memorandum relating to the Pipeline Bonds (in the form of either the “Preliminary Limited Offering Memorandum” or the final “Limited Offering Memorandum”).

### **Agenda Item 3.A.1.**

are hereby approved in substantially the forms on file with the Issuer prior to this meeting, with such insertions, deletions or changes therein (including, without limitation, insertions, deletions or changes therein appropriate to reflect changes required by the rating agencies or potential investors) in substantial conformance with the Term Sheet as the officer(s) executing and/or delivering the same may require or approve, such approval to be conclusively evidenced by execution and delivery thereof in the case of the Pipeline Loan Agreement, the Pipeline Indenture and the Pipeline Bond Purchase Agreement and by delivery thereof in the case of the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum.

**Section 5.** The Issuer understands and agrees that (i) the Borrower will make loan repayments required under the Pipeline Loan Agreement solely from, and the Borrower's obligation to make such loan repayments will be secured solely by, the proceeds of installment sale payments to be made by the Water Authority to the Borrower under the Installment Sale Agreement, and (ii) the Pipeline Bonds are additionally secured by the obligation, under certain circumstances, of Poseidon to make certain contracted shortfall payments to the Borrower pursuant to the Installment Sale Agreement, which obligation is itself secured pursuant to a Collateral Trust Agreement, each such document in substantially the form on file with the Issuer prior to this meeting, with such insertions, deletions or changes therein (including, without limitation, insertions, deletions or changes therein appropriate to reflect changes required by the rating agencies or potential investors) in substantial conformance with the Term Sheet as the officer(s) executing and/or delivering the Authority Pipeline Documents may require or approve, such approval to be conclusively evidenced by the execution and delivery by such officers of the Authority Pipeline Documents.

**Section 6.** The Issuer understands and agrees that pursuant to the terms of the Pipeline Loan Agreement the obligations of the Borrower may, under some circumstances, be carried out or assumed by a successor or assignee entity or by the Water Authority or its successors, provided any such successor or assignee (including, but not limited to, the Water Authority) meets the definition of "Participating Party" in the Act and controls, is controlled by, or is under common control with, the Borrower, as shown by the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through majority equity ownership, contract or otherwise.

**Section 7.** The dates, maturity dates, interest rate or rates, interest payment dates, denominations, forms, registration privileges, place or places of payment, terms of redemption and other terms of each series of the Pipeline Bonds (including, but not limited to, the establishment of debt service reserve funds) shall be as provided in the Pipeline Indenture, as finally executed.

**Section 8.** The Underwriters are hereby authorized to distribute the Preliminary Limited Offering Memorandum to persons who may be interested in the purchase of the Pipeline Bonds. The Underwriters are hereby directed to deliver a copy of the final Limited Offering Memorandum to all actual purchasers of the Pipeline Bonds.

**Section 9.** The Pipeline Bonds shall be executed by the manual or facsimile signature of the Chairman or any Deputy to the Chairman and the seal of the Issuer shall be affixed thereon (or a facsimile reproduced thereon) in the form set forth in and otherwise in accordance with the Pipeline Indenture. The Pipeline Bonds, when executed, shall be delivered to the Pipeline Trustee under the Pipeline Indenture for authentication by the Pipeline Trustee. The Pipeline Trustee is hereby requested and directed to authenticate the Pipeline Bonds by executing the

### **Agenda Item 3.A.1.**

Pipeline Trustee's certificate of authentication appearing thereon. The Pipeline Trustee is hereby requested and directed to deliver the Pipeline Bonds, when duly executed and authenticated, to The Depository Trust Company, New York, New York, on behalf of the Underwriters in accordance with written instructions executed on behalf of the Issuer, which instructions are hereby approved. Such instructions shall provide for the delivery of the Pipeline Bonds to The Depository Trust Company, on behalf of the Underwriters thereof, upon payment of the purchase price thereof.

**Section 10.** Each officer of the Issuer, acting alone, is hereby authorized and directed to do any and all ministerial acts that the officer may deem necessary or advisable in order to consummate the issuance, sale, delivery or remarketing of the Pipeline Bonds, and otherwise to effectuate the purposes of this Resolution and the Pipeline Indenture, the Pipeline Loan Agreement, the Pipeline Bond Purchase Agreement and the Limited Offering Memorandum. The Issuer hereby approves any and all documents to be delivered in furtherance of the foregoing purposes, including, without limitation, any certifications and one or more tax certificates.

**Section 11.** The provisions of the resolution of the Issuer entitled "Resolution of the California Pollution Control Financing Authority Delegating Certain Powers and Authorizing Certain Actions Related to Bond Financings" adopted by the Issuer on January 17, 2012, apply to the documents and actions approved in this Resolution, and the provisions of such resolution are incorporated herein by reference.

**Section 12.** The Issuer hereby approves and ratifies each and every action taken by its officers, agents, members and employees prior to the date hereof in furtherance of the purposes of this Resolution.

**Section 13.** This Resolution shall take effect immediately upon its passage. The adoption by the Issuer of this Resolution for the Borrower shall not be referred to in any application before any government agency as evidence of the feasibility, practicality or suitability of the Pipeline or in any application for any required permission or authority to construct or operate the Pipeline.

**EXHIBIT A**

**TERM SHEET**

<b>Name of Issue:</b>	California Pollution Control Financing Authority Water Furnishing Revenue Bonds (San Diego County Water Authority Desalination Project Pipeline) Series 2012 (the “Pipeline Bonds”)
<b>Maximum Amount of Issue:</b>	\$270,000,000
<b>Issuer:</b>	California Pollution Control Financing Authority (the “Issuer”), Sacramento, CA
<b>Borrower:</b>	San Diego County Water Authority Financing Agency
<b>Pipeline Trustee:</b>	Union Bank, N.A.
<b>Underwriters:</b>	J.P. Morgan Securities LLC, Barclays Capital Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Goldman Sachs & Co. and Stifel, Nicolaus & Company, Incorporated, DBA Stone & Youngberg, a Division of Stifel, Nicolaus
<b>Bond Counsel:</b>	Orrick, Herrington & Sutcliffe LLP, San Francisco, CA
<b>Project</b>	The Pipeline Bond proceeds will finance the development, design, engineering, acquisition and construction of water furnishing facilities for the distribution of clean water in the County of San Diego, including the construction of an approximately 10-mile pipeline connecting a reverse-osmosis seawater desalination plant, and facilities and equipment functionally related thereto, to be located adjacent to the Encina Power Station, at 4590 Carlsbad Boulevard, Carlsbad, California 92008, with the San Diego County Water Authority’s existing water distribution system.

**Agenda Item 3.A.1.**

<b>Maximum Bond Term:</b>	Not to exceed 35 years
<b>Type of Sale:</b>	Negotiated limited offering to Qualified Institutional Buyers as defined in Rule 144A under the Securities Act of 1933
<b>Description of Minimum Denominations:</b>	\$250,000 or any integral multiple of \$5,000 in excess thereof
<b>Financing Structure:</b>	Fixed rate bonds
<b>Maximum Interest Rate:</b>	12%
<b>Other Credit Enhancement:</b>	Not applicable
<b>Anticipated Bond Rating:</b>	A rating of “Baa3,” “BBB-,” or “BBB-” from at least two of Moody’s, S&P and Fitch, respectively
<b>Type of Financing:</b>	Water furnishing revenue bonds
<b>Prepared by:</b>	Jamison Feheley, (212) 270-1156

**FINAL BOND RESOLUTION OF THE  
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY  
RELATING TO FINANCING OF WATER FURNISHING  
FACILITIES AND EQUIPMENT FOR  
POSEIDON RESOURCES (CHANNELSIDE) LP AND/OR ITS AFFILIATES**

**November 30, 2012**

**WHEREAS**, the California Pollution Control Financing Authority (the “Authority”) has received the application of Poseidon Resources (Channelside) LP, a Delaware limited partnership (the “Borrower”), for financial assistance to finance the acquisition, construction and installation of water furnishing facilities, located in San Diego County, and all as more particularly described in the Term Sheet (the “Term Sheet”) attached hereto as Exhibit A and incorporated herein (the “Plant”); and

**WHEREAS**, the Borrower has requested the Authority to issue its revenue bonds from time to time in an amount not to exceed \$570,000,000 to assist in the financing of the Plant; and

**WHEREAS**, the proceeds of such revenue bonds will be loaned to the Borrower under a loan agreement with the Authority (the “Plant Loan Agreement”); and

**WHEREAS**, final approval of the terms of such revenue bonds and certain documents relating to such revenue bonds is now sought; and

**WHEREAS**, the Borrower has provided documentation to the Authority demonstrating that the Plant has complied with Division 13 (commencing with Section 21000) of the Public Resources Code, or is not a project under that division; and

**WHEREAS**, the Borrower has additionally secured its obligations under the Plant Loan Agreement under a Collateral Trust Agreement (the “Collateral Trust Agreement”), among the Borrower, the Plant Trustee (as defined below) and Union Bank, N.A., as collateral agent, and others; and

**WHEREAS**, the Borrower has caused the Collateral Trust Agreement to be prepared and placed on file with the Authority prior to this meeting;

**NOW, THEREFORE, BE IT RESOLVED** by the California Pollution Control Financing Authority, as follows:

**Section 1.** The Plant constitutes a “project,” and the Borrower is a “participating party” both within the meaning of the California Pollution Control Financing Authority Act (the “Act”).

**Section 2.** Pursuant to the Act, revenue obligations of the Authority, designated as the “California Pollution Control Financing Authority Water Furnishing Revenue Bonds (Poseidon Resources (Channelside) LP Desalination Project) Series 2012 (AMT)” (the “Plant Bonds”), or such alternate designation as may be approved by the Executive Director of the Authority, in an aggregate principal amount not to exceed \$570,000,000 are hereby authorized to be issued. The Plant Bonds may be issued at one time, or from time to time, in one or more series separately or differently identified, and may be issued in a tax exempt or taxable mode, in accordance with the Plant Indenture (as hereinafter defined) as finally executed. The proceeds of the Plant Bonds shall be used to make a loan to the Borrower to finance the Plant (including, without limitation, reimbursing the Borrower for costs incurred for the Plant prior to the issuance of the Plant Bonds), and to pay a portion of the costs of issuance of the Plant Bonds.

**Section 3.** The Treasurer of the State of California (the “Treasurer”) is hereby authorized to sell the Plant Bonds, at one time or from time to time on or before December 31, 2012, by negotiated sale, at such price, at such interest rate or rates and in such mode (taxable or tax-exempt) as he may determine, such determination to be as set forth in the hereinafter referred to Plant Bond Purchase Agreement.

**Section 4.** The following documents:

- i.** a Loan Agreement relating to the Plant Bonds (the “Plant Loan Agreement”), between the Authority and the Borrower;
- ii.** an Indenture relating to the Plant Bonds (the “Plant Indenture”), between the Authority and the trustee named in the Term Sheet (the “Plant Trustee”);
- iii.** a bond purchase agreement relating to the Plant Bonds (the “Plant Bond Purchase Agreement”) among the Authority, the Treasurer of the State of California and the underwriters named in the Term Sheet (the “Underwriters”), and approved by the Borrower; and
- iv.** the limited offering memorandum relating to the Plant Bonds (in the form of either the “Preliminary Limited Offering Memorandum” or the final “Limited Offering Memorandum”).

are hereby approved in substantially the forms on file with the Authority prior to this meeting, with such insertions, deletions or changes therein (including, without limitation, insertions, deletions or changes therein appropriate to reflect changes required by the rating agencies or potential investors) in substantial conformance with the Term Sheet as the officer(s) executing and/or delivering the same may require or approve, such approval to be conclusively evidenced by execution and delivery thereof in the case of the Plant Loan Agreement, the Plant Indenture and the Plant Bond Purchase Agreement and by delivery thereof in the case of the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum.

**Section 5.** The Authority understands and agrees that pursuant to the terms of the Plant Loan Agreement the obligations of the Borrower may, under some circumstances, be carried out or assumed by a successor or assignee entity or by Affiliates of such Borrower. For purposes of this Resolution, an “Affiliate” of the Borrower means any person or entity which meets the definition of “Participating Party” in the Act and controls, is controlled by, or is under common

control with, the Borrower, as shown by the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through majority equity ownership, contract or otherwise.

**Section 6.** The dates, maturity dates, interest rate or rates, interest payment dates, denominations, forms, registration privileges, place or places of payment, terms of redemption and other terms of each series of the Plant Bonds (including, but not limited to, the establishment of debt service reserve funds) shall be as provided in the Plant Indenture, as finally executed.

**Section 7.** The Underwriters are hereby authorized to distribute the Preliminary Limited Offering Memorandum to persons who may be interested in the purchase of the Plant Bonds. The Underwriters are hereby directed to deliver a copy of the final Limited Offering Memorandum to all actual purchasers of the Plant Bonds.

**Section 8.** The Plant Bonds shall be executed by the manual or facsimile signature of the Chairman or any Deputy to the Chairman and the seal of the Authority shall be affixed thereon (or a facsimile reproduced thereon) in the form set forth in and otherwise in accordance with the Plant Indenture. The Plant Bonds, when executed, shall be delivered to the Plant Trustee under the Plant Indenture for authentication by the Plant Trustee. The Plant Trustee is hereby requested and directed to authenticate the Plant Bonds by executing the Plant Trustee's certificate of authentication appearing thereon. The Plant Trustee is hereby requested and directed to deliver the Plant Bonds, when duly executed and authenticated, to The Depository Trust Company, New York, New York, on behalf of the Underwriters in accordance with written instructions executed on behalf of the Authority, which instructions are hereby approved. Such instructions shall provide for the delivery of the Plant Bonds to The Depository Trust Company, on behalf of the Underwriters thereof, upon payment of the purchase price thereof.

**Section 9.** The Authority hereby dedicates and confirms its allocation to the Plant Bonds of \$570,000,000 of the 2009 State Ceiling on qualified private activity bonds as previously received from the California Debt Limit Allocation Committee and carried forward by the Authority to finance certain costs of the Plant and to pay certain costs of issuance of the Plant Bonds, so as to satisfy the requirements of Section 146(e) of the Internal Revenue Code of 1986, with respect to the Plant Bonds.

**Section 10.** Each officer of the Authority, acting alone, is hereby authorized and directed to do any and all ministerial acts that the officer may deem necessary or advisable in order to consummate the issuance, sale, delivery or remarketing of the Plant Bonds, and otherwise to effectuate the purposes of this Resolution and the Plant Indenture, the Plant Loan Agreement, the Plant Bond Purchase Agreement and the Limited Offering Memorandum. The Authority hereby approves any and all documents to be delivered in furtherance of the foregoing purposes, including, without limitation, any certifications and one or more tax certificates.

**Section 11.** The provisions of the resolution of the Authority entitled "Resolution of the California Pollution Control Financing Authority Delegating Certain Powers and Authorizing Certain Actions Related to Bond Financings" adopted by the Authority on January 17, 2012, apply to the documents and actions approved in this Resolution, and the provisions of such resolution are incorporated herein by reference.

**Section 12.** The Authority hereby approves and ratifies each and every action taken by its officers, agents, members and employees prior to the date hereof in furtherance of the purposes of this Resolution.

**Section 13.** This Resolution shall take effect immediately upon its passage. The adoption by the Authority of this Resolution for the Borrower shall not be referred to, in any application before any government agency or otherwise, as evidence of the feasibility, practicality or suitability of the Plant or in any application for any required permission or authority to construct or operate the Plant.

**EXHIBIT A**

**TERM SHEET**

<b>Name of Issue:</b>	California Pollution Control Financing Authority Water Furnishing Revenue Bonds (Poseidon Resources (Channelside) LP Desalination Project) Series 2012 (AMT) (the “Plant Bonds”)
<b>Maximum Amount of Issue:</b>	\$570,000,000
<b>Issuer:</b>	California Pollution Control Financing Authority (the “Authority”), Sacramento, CA
<b>Borrower:</b>	Poseidon Resources (Channelside) LP
<b>Plant Trustee:</b>	Union Bank, N.A.
<b>Underwriters:</b>	J.P. Morgan Securities LLC, Barclays Capital Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Goldman Sachs & Co. and Stifel, Nicolaus & Company, Incorporated, DBA Stone & Youngberg, a Division of Stifel, Nicolaus
<b>Bond Counsel:</b>	Orrick, Herrington & Sutcliffe LLP, San Francisco, CA
<b>Project</b>	The Plant Bond proceeds will finance the acquisition, construction and installation of facilities for the production, treatment and distribution of water in the County of San Diego, including the construction of an approximately 50 million gallon per day reverse-osmosis seawater desalination plant, and facilities and equipment functionally related thereto, to be located adjacent to the Encina Power Station, at 4590 Carlsbad Boulevard, Carlsbad, California 92008.
<b>Maximum Bond Term:</b>	Not to exceed 35 years

**Agenda Item 3.A.1.**

<b>Type of Sale:</b>	Negotiated limited offering to Qualified Institutional Buyers as defined in Rule 144A under the Securities Act of 1933
<b>Description of Minimum Denominations:</b>	\$250,000 or any integral multiple of \$5,000 in excess thereof
<b>Financing Structure:</b>	Fixed rate bonds
<b>Maximum Interest Rate:</b>	12%
<b>Other Credit Enhancement:</b>	Not applicable
<b>Anticipated Bond Rating:</b>	A rating of “Baa3,” “BBB-,” or “BBB-” from at least two of Moody’s, S&P and Fitch, respectively
<b>Type of Financing:</b>	Water furnishing revenue bonds
<b>Prepared by:</b>	Jamison Fehely, (212) 270-1156

**THE CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY**

**A RESOLUTION DEDICATING FOR USE OF A PORTION OF THE STATE CEILING  
ON QUALIFIED PRIVATE ACTIVITY BONDS FOR AN  
EXEMPT FACILITY PROJECT**

**WHEREAS**, the California Pollution Control Financing Authority (“CPCFA”) has received an application (“Application”) from Poseidon Resources (Channelside) LP and/or its Affiliates (“Project Sponsor”) for approval of the issuance of revenue bonds; and

**WHEREAS**, on November 30, 2012, CPCFA approved Final Resolution No. 515 (“Final Resolution”) authorizing the issuance of up to \$570,000,000 of its water furnishing revenue bonds (Poseidon Resources (Channelside) LP Project) Series 2012 (“Bonds”); and

**WHEREAS**, in seeking CPCFA approval of the Final Resolution, the Project Sponsor represented certain facts and information concerning the project to CPCFA which were relied upon by CPCFA in approving the Final Resolution; and

**WHEREAS**, the California Debt Limit Allocation Committee (“CDLAC”) has previously transferred to CPCFA a portion of the 2009 State Ceiling and 2010 State Ceiling (collectively, “the State Ceiling”) on Qualified Private Activity Bonds pursuant to Section 146 of the Internal Revenue Code of 1986, as amended, for use by CPCFA to issue bonds or other obligations in a manner consistent with CDLAC’s policies and procedures. Accordingly, capitalized terms not otherwise defined shall have the meanings ascribed to them in the “Procedures of the California Debt Limit Allocation Committee Implementing the Allocation of State Ceiling on Private Activity Bonds” (“CDLAC Procedures”); and

**WHEREAS**, it is appropriate for CPCFA to confirm the use of a portion of the State Ceiling on Qualified Private Activity Bonds allocated to CPCFA (“CPCFA Allocation”) to the issuance of the Bonds as set forth in the Final Resolution;

**NOW, THEREFORE**, CPCFA resolves as follows:

**Section 1.** CPCFA Allocation in the amount of \$570,000,000 is hereby dedicated to the issuance of the Bonds. The dedicated CPCFA Allocation may be used only by the Project Sponsor and only for the issuance of Bonds for the Project, as specifically described in Exhibit A, and consistent with the terms of the Final Resolution. All of the terms and conditions of Exhibit A, and the Final Resolution are incorporated herein as though set forth in full (this resolution, the Final Resolution and Exhibit A, collectively “Resolution”).

**Section 2.** The terms and conditions of this Resolution shall be incorporated in appropriate documents relating to the Bonds, and the Project Sponsor and all its respective successors and assignees, will be bound by such terms and conditions.

**Section 3.** Any modification to the Project made prior to the issuance of the Bonds must be reported to the Executive Director and shall require reconsideration by the CPCFA before the Allocation may be used for the Project.

**Section 4.** The CPCFA Allocation dedicated by this Resolution shall automatically revert to CPCFA unless the Bonds for the Project have been issued by CPCFA by the close of business on **February 28, 2013**. In a case of extreme hardship, the Deputy Executive Director or the Executive Director may extend this date by up to thirty (30) business days.

**Section 5.** Within twenty-four (24) hours of issuing the Bonds, CPCFA shall notify CDLAC via the email or the fax number as provided in Section 5140 of the CDLAC Regulations that the Bonds have been issued. This notice shall identify the Project Sponsor, the project or program, the date and amount of the Bonds issued.

**Section 6.** Within fifteen (15) calendar days of the Bond closing, CPCFA or its counsel shall formally transmit to CDLAC information regarding the issuance of the Bonds by submitting the appropriate completed Report of Action Taken in a form prescribed by and made available by CDLAC.

**Section 7.** Any differences between the amount of Bonds issued and the amount of the CPCFA Allocation dedicated in Section 1 of this Resolution shall automatically revert to CPCFA. If at any time prior to the expiration date set forth in Section 4 hereof the Project Sponsor determines that part or all of the CPCFA Allocation dedicated in Section 1 of this Resolution will not be required by the Project by that date, the Project Sponsor shall promptly give notice to CPCFA.

**Section 8.** In consideration of the CPCFA Allocation dedicated in Section 1 of this resolution, the Project Sponsor shall comply with all of the terms and conditions contained in this Resolution and ensure that these terms and conditions are included in the documents related to the Bonds. Further, the Project Sponsor expressly agrees that the terms and conditions of this Resolution may be enforced by CDLAC or CPCFA through an action for specific performance or any other available remedy, provided however, that CDLAC and CPCFA agree not to take such action or enforce any such remedy that would be materially adverse to the interests of Bondholders. In addition, CPCFA shall ensure that the Bond documents, as appropriate, expressly provide that CDLAC is a third party beneficiary of the terms and conditions set forth in this Resolution.

**Section 9.** The Project Sponsor or its successor-in-interest shall provide certifications of compliance with the terms and conditions set forth in this Resolution when reasonably requested by CDLAC or CPCFA.

**Section 10.** This Resolution shall take effect immediately upon its adoption.

**AN EXEMPT FACILITY PROJECT**  
**EXHIBIT A**

1. Project Sponsor: Poseidon Resources (Channelside) LP and/or its Affiliates
2. Application #: 849 (SB)
3. Project User: Poseidon Resources (Channelside) LP and/or its Affiliates
4. Project Name: Carlsbad Desalination Plant
5. Location: City of Carlsbad (San Diego County)
6. Credit Enhancement or Private Placement Purchaser: Negotiated Limited Offering to QIBs
7. The Credit Enhancement Provider/Private Placement Purchaser at the time of issuance will be the same as represented in the application.
8. Amount of Allocation: \$570,000,000